

REMARKS**Specification**

The specification has been amended to include the serial numbers for the cross references on page 1. These amendments do not add any new matter to the specification.

Restriction

In paper No. 6 filed on November 1, 2002 Applicants have elected the claims of Group II. The Examiner has withdrawn from consideration Claims 1-14, 27-37, 39, 40, 42, and 43 as being drawn to a non-elected Invention.

Election of Species

Applicants acknowledge the Examiner's withdrawal of the requirement for Election of Species in Paper No. 5.

Double Patenting

In Section 5 of the present Office Action, Claims 15 and 19 of have been provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over at least Claims 11-18 of copending Application No. 09/560,317. Accompanying this response is an appropriately executed Terminal Disclaimer in compliance with 37 CFR § 1.321(c). Applicants believe that this Terminal Disclaimer is sufficient to overcome any actual or provisional rejection based on a non-statutory double patenting ground.

Claim Rejections -- 35 U.S.C. § 102

On page 4 of the present Office Action, Claims 15-25, 38, and 41 have been rejected under 35 U.S.C. § 102(e) as being anticipated by *Sone* (US Patent No.6,204,763 B1). That rejection is respectfully traversed and reconsideration of the claims is requested.

Claim 15 of the present application has been amended to include the limitations of Claim 17, and recites *inter alia*:

receiving food-related inventory preferences for a particular user from among said plurality of users at said controller from a personal electronic memory digital data storage device carried on the person of said particular user proffered by said particular user at said controller.

On page 5 of the present Office Action, it is suggested that *Sone* shows this element of Claim 15 by the presence of a section of refrigerated compartment 22 (see column 6, lines 16-23 of *Sone*).

Applicants respectfully disagree that a refrigerator compartment can in any way show or suggest a SmartCard carried by a user. Specifically, second section 22B of refrigerated compartment 22 cannot be interpreted as "a personal electronic memory digital data storage device," nor can it be suggested that refrigerator compartment 22B can be "carried on the person of said particular user" as is recited in Claim 15. Consequently, Applicants respectfully submit that *Sone* does not anticipate the present invention as claimed in Claim 15 and the rejection under Section 102 should be withdrawn. Claim 38 and dependent claims 16-26 are drawn to similar subject matter. For the reasons given above with respect to Claim 15, Applicants submit that *Sone* does not anticipate Claims 16-26 and 28 for the reasons given above and the rejection of those claims under Section 102 should be withdrawn.

With respect to Claim 41, Claim 41 in the present application recites *inter alia*:

receiving records of additions and removals of food-related inventory in a particular storage area at a controller for said particular storage area;

adjusting a current database of intended food-related inventory for said particular storage area at said controller according to said records of additions and removals; and

On page 5 of the present Office Action, it is stated that the step of "receiving records of additions and removals" is inherent in the teaching of *Sone*. Applicants disagree because *Sone's* system of automatic replenishment has no need to keep track of additions to the refrigerator. As *Sone* explains, the set of sensors 31 communicate with the computer 26 to notify the system when particular items are removed, but nothing in the reference suggests that there is an

advantage to keeping a "record" of any additions to the refrigerator. Consequently, Applicants respectfully disagree that the element of "*receiving records of additions*" is inherent in the teaching of *Sone* (column 6, lines 25-38). Moreover, *Sone* does not teach "*adjusting a current database of intended food-related inventory for said particular storage area at said controller according to said records of additions*" Consequently, Applicants submit that *Sone* does not anticipate Claim 41 and that the rejection under Section 102 should be withdrawn.

Claim Rejections -- 35 U.S.C. § 103

In Section 12 of the present Office Action, Claims 15-25, 38, and 41 have been alternatively rejected under 35 U.S.C. § 103(a) as being unpatentable over *Sone*. That rejection is respectfully traversed and reconsideration of the claims is requested.

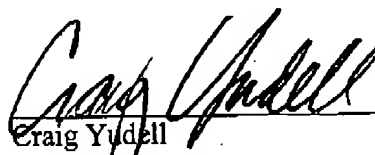
With respect to Claim 15, Applicants respectfully submit that for the reasons given above explaining that *Sone* does not anticipate the present invention as claimed in Claims 15-25, 38, and 41, Applicants submit that the present invention is patentable over *Sone* and that the rejection under Section 103 should be withdrawn. With respect to Claim 15, nothing within *Sone* suggests that there would be any utility for allowing a user to input their preferences using a SmartCard-type memory device within the replenishment system of *Sone*. Consequently, there is no suggestion in the reference that would render such a component to the system obvious to someone skilled in the art at the time the invention was made. With respect to Claim 41, as explained above, the system of *Sone* operates by sensing particular items within the refrigerator and notifying a system when an item has been removed. Nothing within *Sone* teaches or suggests an advantage of keeping track of "additions" to the refrigerator. Essentially, the system operates by sensing when items need to be replenished, and not necessarily keeping a "record" of additions. Consequently, Applicants respectfully submit that the pending claims of the present application are not obvious in light of *Sone* and that the rejection under Section 103 should be withdrawn.

In section 13 of the present Office Action, Claim 26 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over *Sone* in view of *Salvo et al.* (US Patent No. 6,341,271).

That rejection is respectfully traversed and reconsideration of the claim is requested. For the reasons given above with respect to the patentability of Claim 15, Applicants submit that Claim 26 is similarly not shown or suggested by *Sone* in view of *Salvo* and submit that the rejection under Section 103 should be withdrawn.

No fee is believed to be required by this amendment; however, in the event any additional fees are required, please charge those fee to IBM Corporation Deposit Account Number 09-0447.

Respectfully submitted,



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